

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CARL WALKER,) CAF NO. _____
)
 Plaintiff,)
)
 vs.)
)
 CUYAHOGA COUNTY, *et al.*,)
)
 Defendants.)

**DEFENDANTS CUYAHOGA COUNTY, CUYAHOGA COUNTY COURT
OF COMMON PLEAS, AND THE HON. JOSÉ A. VILLANUEVA'S
NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1343, 1441, and 1446, Defendants Cuyahoga County, Ohio, Cuyahoga County Court of Common Pleas, and the Honorable José A. Villanueva (collectively, "Defendants") hereby jointly remove Case No. 23-C-01138-S5 from the State Court of Gwinnett County of the State of Georgia (the "State Court") to this Court, whose district and division embraces the State Court wherein the action is now pending.

By effecting this removal, Defendants do not waive any defenses that might be available to them, including without limitation those defenses relating to

jurisdiction and venue and those defenses available under Federal Rule of Civil Procedure 12. Defendants expressly and unanimously consent to this removal. *See* 28 U.S.C. § 1446(b)(2)(A).

I. NATURE OF THE ACTION

1. This action was commenced in the State Court on February 21, 2023, by the filing of a complaint (the “Complaint”) by Plaintiff Carl Walker (“Plaintiff”).
2. The Northern District of Georgia, Atlanta Division, are the district and division in which the State Court is located. Defendants are removing this case from the State Court of Gwinnett County of the State of Georgia.
3. True and correct copies of all process, pleadings, and orders served upon Defendants in the action are attached hereto as **Exhibits A through G**.
4. Defendants base this removal on 28 U.S.C. §§ 1441 and 1446, which permit removal of state court actions within the original jurisdiction of this Court.
5. This Notice of Removal is timely under 28 U.S.C. § 1441(c) and § 1446(b), as it is being filed within thirty (30) days after service of the complaint and within one year of the commencement of this action.
6. Defendants have not yet responded to the Complaint, and the time to do so has not yet expired.

7. In accordance with 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendants will serve this Notice of Removal on Plaintiff and will file a copy of this Notice of Removal with the State Court. A true and correct copy of the notice to be filed (without attachments) with the State Court is attached hereto as **Exhibit H**.

II. THIS COURT HAS JURISDICTION OVER THE ACTION

8. This action is within the original jurisdiction of this Court under 28 U.S.C. §§ 1331 and 1343.

9. *First*, this Court has jurisdiction under 28 U.S.C. § 1331 because the action is one that is founded on a claim or right “arising under the Constitution, laws, or treaties of the United States.” Specifically, the Complaint alleges Defendants “caused constitutional deprivation to Plaintiff Walker, under the Fifth, Eighth and Fourteenth Amendments of the United States Constitution. (Compl. at p. 7.)

10. *Second*, this Court has jurisdiction under 28 U.S.C. § 1343(a)(4) because the action is one to “recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights.” The Complaint asserts Plaintiff’s claims arise under a federal civil-rights statute, 42 U.S.C. § 1983. (Compl. at ¶¶ 1-2.)

11. Accordingly, this action is properly removable to federal court pursuant to 28 U.S.C. § 1441(c) and § 1446(b).

WHEREFORE, Defendants respectfully submit that this action is now properly removed from the State Court of Gwinnett County of the State of Georgia and is properly before this Court and that all further actions will take place before this Court.

Respectfully submitted, this 14th day of July 2023.

KREVOLIN & HORST, LLC

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1D, the undersigned counsel hereby certifies that the foregoing **NOTICE OF REMOVAL** complies with the font and point selections approved by the Court in Local Rule 5.1C. This document was prepared on a computer using Times New Roman font (14 point).

This 14th day of July 2023.

KREVOLIN & HORST, LLC

Adam M. Sparks
Adam M. Sparks
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing
NOTICE OF REMOVAL by using the Court's CM/ECF filing system, which
will automatically send service copies to all parties of record, and by depositing the
same in first-class United States mail in a properly addressed envelope with
adequate postage affixed thereon to ensure delivery to the following:

Carl Walker
413 Harmony Grove Rd.
Lilburn, GA 30047
(216) 408-8614
Plaintiff

This 14th day of July 2023.

KREVOLIN & HORST, LLC

Adam M. Sparks
Adam M. Sparks
Counsel for Defendants